

**UNITED STATES DISTRICT COURT
DISTRICT OF NEW JERSEY**

LUIS RODRIGUEZ,	:	
	:	
Petitioner,	:	Case No. 3:18-cv-12570 (BRM)
	:	
v.	:	
	:	
ATTORNEY GENERAL OF THE STATE	:	
OF NEW JERSEY, et al.,	:	OPINION
	:	
Respondents.	:	
	:	

Before this Court is *pro se* Petitioner Luis Rodriguez’s petition for writ of habeas corpus pursuant to 28 U.S.C. § 2254. Presently pending is Petitioner’s motion for reconsideration of the denial of his habeas petition due to untimeliness. (*See* ECF No. 8.) Having reviewed the submissions filed in connection with the motion, and for good cause appearing, the Clerk shall reopen this case, and Petitioner’s motion for reconsideration is **DENIED**.

I. FACTUAL AND PROCEDURAL BACKGROUND

This Court received Plaintiff's habeas petition in August 2018. (*See* ECF No. 1.) Respondents filed a response in opposition in September 2018. (*See* ECF No. 4.) Respondents argued in part Petitioner's habeas petition was untimely. On May 20, 2019, this Court denied the habeas petition due to untimeliness. (*See* ECF No. 6 & 7.) Most specifically, this Court determined Petitioner's habeas petition was over three years late and statutory and/or equitable tolling did not apply to save the petition.

Over one year later, Petitioner filed a “motion for reconsideration.” (*See* ECF 8.) Petitioner refers to a decision by the New Jersey Supreme Court on April 7, 2020 in which it denied his petition for certification. He also alludes to the fact his unit is in lockdown due to the COVID-19 pandemic and he cannot proceed with legal material.

II. LEGAL STANDARD

Local Civil Rule 7.1 allows a party to seek a motion for re-argument or reconsideration of “matter[s] or controlling decisions which the party believes the Judge or Magistrate Judge has overlooked.” L.Civ.R. 7.1(i). Whether to grant a motion for reconsideration is a matter within the Court’s discretion, but it should only be granted where such facts or legal authority were indeed presented but overlooked. *See BeLong v. Raymond Int’l Inc.*, 622 F.2d 1135, 1140 (3d Cir. 1980), *overruled on other grounds by Croker v. Boeing Co.*, 662 F.2d 975 (3d Cir. 1981); *see also Williams v. Sullivan*, 818 F. Supp. 92, 93 (D.N.J. 1993).

To prevail on a motion for reconsideration, the movant must show: “(1) an intervening change in the controlling law; (2) the availability of new evidence that was not available when the court . . . [rendered the judgment in question]; or (3) the need to correct a clear error of law or fact or to prevent manifest injustice.” *U.S. ex rel. Shumann v. Astrazeneca Pharm. L.P.*, 769 F.3d 837, 848-49 (3d Cir. 2014) (citing *Max’s Seafood Cafe ex rel. Lou-Ann, Inc. v. Quinteros*, 176 F.3d 669, 677 (3d Cir. 1999)). The standard of review involved in a motion for reconsideration is high and relief is to be granted sparingly. *United States v. Jones*, 158 F.R.D. 309, 314 (D.N.J. 1994). “The Court will grant a motion for reconsideration only where its prior decision has overlooked a factual or legal issue that may alter the disposition of the matter. The word ‘overlooked’ is the operative term in the Rule.” *Andreyko v. Sunrise Sr. Living, Inc.*, 993 F. Supp. 2d 475, 478 (D.N.J. 2014) (internal citations and quotation marks omitted). Mere disagreement with the Court’s decision is not a basis for reconsideration. *United States v. Compaction Sys. Corp.*, 88 F. Supp. 2d 339, 345 (D.N.J. 1999).

III. DISCUSSION

Petitioner's motion for reconsideration does not meet the standard outlined above. Indeed, as previously noted, this Court denied Petitioner's habeas petition due to its untimeliness. Petitioner's motion for reconsideration, filed more than one year after this Court disposed of Petitioner's habeas petition does not mention a change in controlling law, the availability of new evidence not previously available, or the need to correct a clear error of law or to prevent manifest injustice. Instead, it merely alludes to a recent decision in his case from the New Jersey Supreme Court in state court proceedings as well as the impact the COVID-19 pandemic has had on his unit. Accordingly, it is denied.

IV. CONCLUSION

For the foregoing reasons, Petitioner's motion for reconsideration is denied. An appropriate order will be entered.

Dated: January 29, 2021

/s/ **Brian R. Martinotti**
BRIAN R. MARTINOTTI
UNITED STATES DISTRICT JUDGE